IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SALVADOR ROBLES, JORGE AVALOS, and JOSE MARQUEZ, individually on behalf of themselves and on behalf of all others similarly situated, Plaintiffs, v. COMTRAK LOGISTICS, INC., HUB GROUP, INC., HUB GROUP TRUCKING, INC., and DOES 1 THROUGH 10 INCLUSIVE, Defendants.	)	Case No. 15-02228

ORDER

Before the Court is Defendants Hub Group Trucking, Inc., formerly known as Comtrak Logistics, Inc., and Hub Group, Inc.'s (collectively, "Defendants") June 8, 2015 Motion to Dismiss Plaintiffs' Second Amended Complaint (the "Motion"). (Mot., ECF. No. 91; Second Am. Compl., ECF No. 86.) Plaintiffs Salvador Robles ("Robles"), Jorge Avalos, and Jose Marquez, on behalf of themselves and all others similarly situated, (collectively, "Plaintiffs") responded to the Motion on June 29, 2015. (Resp., ECF No. 95.) Defendants replied on July 13, 2015. (Reply, ECF No. 97.) On October 15, 2015, February 24, 2016, and May 13, 2016, Defendants filed Notices of Supplemental Authority. (Notice, ECF No. 103; Notice, ECF No. 108; Notice, ECF No. 109.) On October 30, 2015, Plaintiffs filed a Notice of Supplemental Authority. (Notice, ECF No. 106.)

For the following reasons, Defendants' Motion to Dismiss is GRANTED in part, and DENIED in part.

I. Background

Plaintiffs seek to represent a class of current and former truck drivers, asserting claims against trucking company Defendants based on alleged violations of California labor and competition laws and unjust enrichment.

From approximately 2009 to 2014, Defendants classified their truck drivers, including Plaintiffs, as independent contractors. (Second Am. Compl., ECF No. 86 at 2.) That classification was established in the Independent Contractor and Equipment Lease Contracts (the "Contracts") that Plaintiffs signed. (Id. at 25.) Under the Contracts, Plaintiffs leased their trucks and driving services to Defendants, and Plaintiffs and Defendants specified the terms of the overall relationship, including liability, allowances for expense deductions, and insurance coverage. (Id. at 32.)

On January 25, 2013, Salvador Robles, individually and on behalf of others similarly situated, filed the initial complaint in this case in the United States District Court for the Eastern

District of California. (Compl., ECF No. 1) On May 6, 2013, Robles filed an Amended Complaint. (Am. Compl., ECF No. 24.) On January 16, 2015, Defendants filed a Motion to Change Venue on the basis of the forum selection clause in the Contracts selecting state or federal courts sitting in Memphis, Tennessee. (Mot., ECF No. 59.) That motion was granted on April 4, 2015, transferring the case to this Court. (Order, ECF No. 66.) Robles again amended his complaint on May 15, 2015. (Second Am. Compl., ECF No. 86.)

In his Second Amended Complaint, Robles alleges that, regardless of contractual labels, Plaintiffs' relationship with Defendants is properly characterized as an employment relationship. He alleges that, given that employment relationship, Defendants failed to comply with provisions of the California Labor Code (Cal. Lab. Code §§ 201-203, 221, 223, 226, 512, 516, 1182, 1194, 1197, 2802), Industrial Welfare Commission for the Transportation Industry wage order number nine (the "IWC Order"), and the California Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, et seq.). (Id. at 3.) To the extent California law fails to provide compensation, Robles alleges, in the alternative, that Plaintiffs are entitled to compensation for unpaid miles and working hours under a theory of quantum meruit. (Id. at 50.)

Beginning approximately August 27, 2014, Defendants began meeting individually with potential class members to reach settlements. (Id. at 6.) In those meetings, Defendants informed potential class members that they were being converted from independent contractors to employees and offered settlements in the pending case. (Id.)

Plaintiffs Jorge Avalos and Jose Marquez were among the subset of potential class members who accepted settlement offers and signed liability releases. On behalf of themselves and a sub-class of potential class members, Avalos and Marquez allege additional claims that the settlement process was coercive, unfair, unjust, and hence invalid. (Id.)

Robles asserts several causes of action individually. He claims that, after being reclassified as an employee, many of the alleged California labor and trucking law violations persisted, and he seeks relief based on those subsequent violations. (Id. at 7.)

II. Jurisdiction and Venue

Plaintiffs do not specifically allege the basis for this Court's subject-matter jurisdiction. The Court has jurisdiction under the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d)(2). Under CAFA, federal courts have original jurisdiction of class actions in which: (1) any member of the putative class of plaintiffs is a citizen of a state different from any defendant; (2) the number of members of the putative class is at least one hundred; and (3) the amount in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2).

Plaintiffs are a putative class of 334 current and former truck drivers who are citizens of California, Idaho, Texas, and North Dakota. (Second Am. Compl., ECF No. 86 at 10-18.) Defendants Hub Group, Inc., Hub Group Trucking, Inc., and Comtrak Logistics, Inc. are or were Delaware corporations with their principal places of business in Oak Brook, Illinois. (Second Am. Compl., ECF No. 86 at 18-21.) The requirements of minimal diversity and numerosity are satisfied.

Plaintiffs seek reimbursement for business expenses, recovery of unpaid minimum wages, recovery for unpaid waiting time, and other damages on behalf of 334 individuals over a period of at least 6 years. (Id. at 1-18.) Plaintiffs' claims exceed $5,000,000, exclusive of interest and costs. Rosen v. Chrysler Corp., 205 F.3d 918, 920 (6th Cir. 2000). The amount-in-controversy requirement is satisfied.

On April 6, 2015, the case was transferred to this Court from the United States District Court for the Eastern District of California. (Notice, ECF No. 67.) The transferring court found that the forum selection clause in the Contracts was valid and enforceable. Venue is proper. (Order, ECF No. 66.)

III. Choice of law

"Where the underlying basis for CAFA jurisdiction is diversity, the forum state's choice of law rules apply." Wright v. Linebarger Googan Blair & Sampson, LLP, 782 F. Supp. 2d 593, 601 (W.D. Tenn. 2011) (citing Savedoff v. Access Group, Inc., 524 F.3d 754, 760 (6th Cir. 2008)). Tennessee choice-of-law rules apply.

The parties disagree about whether the claims in this case are "related" to their Contracts, and therefore governed by the choice-of-law provision in the Contracts, or are claims arising from external rights and duties associated with the parties' alleged employment relationship. (Mot., ECF No. 91 at 1-2; Resp., ECF No. 95 at 10.) That distinction is not dispositive because the choice-of-law provision is not enforceable. California law applies to all contract and tort claims.

Under Tennessee law, where the parties' contract contains a choice-of-law provision, the court will honor the parties' choice to apply the laws of another jurisdiction if: (1) the choice-of-law provision is executed in good faith; (2) the chosen jurisdiction bears a material connection to the transaction; (3) the basis for the choice is reasonable and not a sham; and (4) the choice is not contrary to the fundamental policy of a state having a materially greater interest and whose law would otherwise govern. Lubinski v. Hub Group Trucking, Inc., 2015 WL 10732716 at *3 (W.D. Tenn. Sept. 22, 2015) (citing Yang Ming Marine Transp. Corp. v. Intermodal Cartage Co., Inc., 685 F. Supp. 2d 771, 780 (W.D. Tenn. 2010)).

The second prong is not met here. The transactions have no material connection to Tennessee. None of the parties is a domiciliary, resident, or citizen of Tennessee. Plaintiffs entered into the Contracts in California. It is not alleged that any performance was to take place in Tennessee. (Resp., ECF No. 95 at 15.) Defendants represent that they have some "operations" in Tennessee, but there is no demonstrated connection between those operations and this case. (Mot., ECF No. 92 at 2.) Without more, there is no material connection between Tennessee and the parties' transactions. The choice-of-law provision is not enforceable.

Absent an enforceable choice-of-law provision, Tennessee follows the rule of lex loci contractus, which provides that a contract is presumed to be governed by the law of the jurisdiction in which it was executed. Williams v. Smith, 2014 WL 6065818, *4 (Tenn. Ct. App. Nov. 6, 2014) (citing Ohio Cas. Ins. Co. v. Travelers Indem. Co., 493 S.W.2d 465, 467 (Tenn. 1973)). The Contracts were signed in California. Because the choice-of-law provision is not enforceable, California substantive law applies to the parties' Contracts.

"[S]ettlement agreements are a type of contract" and are "governed by state contract law." Smith v. ABN AMRO Mortg. Group Inc., 434 Fed. App'x 454, 460 (6th Cir. 2011). The settlement agreements in this case were also executed in California. (Second Am. Compl., ECF No. 86 at 6.) California contract law applies to those agreements.

Tennessee applies the "most significant relationship" approach to tort disputes. Montgomery v. Wyeth, 580 F.3d 455, 459 (6th Cir. 2009) (citing Hataway v. McKinley, 830 S.W.2d 53, 59 (Tenn. 1992)). That approach dictates that the "law of the state where the injury occurred will be applied unless some other state has a more significant relationship to the litigation." Hataway, 830 S.W.2d at 59. The alleged injury to Plaintiffs occurred when they were residents of California or assigned to Defendants' California terminals. (Second Am. Compl., ECF No. 86 at 10.) The underlying claim revolves around the classification of California employees and independent contractors conducting business in and from California. No other state has a more significant relationship to the litigation. California law applies to Plaintiffs' tort claims.

IV. Standard of Review

In addressing a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), the court must construe the complaint in the light most favorable to the plaintiff and accept all well-pled factual allegations as true.

League of United Latin Am. Citizens v. Bredesen, 500 F.3d 523, 527 (6th Cir. 2007). A plaintiff can support a claim "by showing any set of facts consistent with the allegations in the complaint." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 563 (2007). This standard requires more than bare assertions of legal conclusions. Bovee v. Coopers & Lybrand C.P.A., 272 F.3d 356, 361 (6th Cir. 2001). "[A] formulaic recitation of the elements of a cause of action will not do." Twombly, 550 U.S. at 555. Any claim for relief must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Erickson v. Pardus, 551 U.S. 89, 93 (2007) (per curiam). "Specific facts are not necessary; the statement need only 'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Id. (quoting Twombly, 550 U.S. at 555).

Nonetheless, a complaint must contain sufficient facts "to 'state a claim to relief that is plausible on its face'" to survive a motion to dismiss. Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Twombly, 550 U.S. at 570). "The plausibility standard is not akin to a 'probability requirement,' but it asks for more than a sheer possibility that a defendant has acted unlawfully." Id. (citing Twombly, 550 U.S. at 556). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. at 678 (citation omitted). A plaintiff with no facts and "armed with nothing more than conclusions" cannot "unlock the doors of discovery." Id. at 679.

V. Analysis

Defendants argue that Plaintiffs' Second Amended Complaint should be dismissed because: (1) the settlement agreements entered into by some potential class members are enforceable; (2) the California statutory claims are invalid because Tennessee law controls; (3) the California statutory claims are preempted under the Federal Aviation Administration Act, 49 U.S.C. § 14501(c)(1) (the "FAAA"); and (4) the quantum meruit claims are invalid because express contracts governed the parties' relationships.

A. The Settlement Agreements

Defendants argue that the settlement agreements entered into by some potential class members are enforceable and that their claims have been released. Plaintiffs have failed to allege sufficient facts in their Second Amended Complaint to state a claim voiding the settlement agreements that is plausible on its face.

Plaintiffs allege that the settlement process was "coercive, unfair, and unjust." (Second Am. Compl., ECF No. 86 at 6) That argument is one of duress, deception, and undue influence. Under California law, a settlement agreement may be voided for economic duress when duress "is sufficiently coercive to cause a reasonably prudent person faced with no reasonable alternative to succumb to the perpetrator's pressure." Rich & Whillock, Inc. v. Ashton Development, Inc., 157 Cal. Rptr. 1154, 1158 (Cal. Ct. App. 1984) (citing Leeper v. Beltrami, 347 P.2d 12 (Cal. 1959)). A settlement agreement secured by fraud in the "inducement" is voidable, and one secured by fraud in the "execution" is void. Rosenthal v. Great Western Fin. Sec. Corp., 58 Cal. Rptr. 2d 875, 887 (Cal. 1996). Fraud in the inducement requires a showing that the promisor's "consent is induced by fraud," while fraud in the execution requires a showing that "the promisor is deceived as to the nature of his act" of consent. Id. A settlement agreement may be voided on the ground of undue influence when one party has engaged in "improper or wrongful constraint, machination, or urgency of persuasion whereby the will of [the other party] is overpowered." Pour Le Bebe, Inc. v. Guess? Inc., 5 Cal. Rptr. 3d 442, 460 (Cal. Ct. App. 2003).

Plaintiffs allege that Defendants made employment offers and tendered settlement agreements at the same time during closed-door meetings:

> [T]he drivers were told that they were being converted to employee drivers while simultaneously being informed of the settlement offers and presented with prepared settlement checks to pick up immediately——as soon as they had signed releases of claims in this litigation . . . . Further, in connection with

> the conversion to employee drivers, the drivers were informed that refusal to accept the employee status would result in the driver being terminated . . . rendering the driver out of work . . . . If a driver chose not to convert to an employee driver, that driver would also immediately become responsible for buying Defendants out of the tractor lease on his or her truck, requiring an up[-]front balloon payment . . . in the tens of thousands of dollars . . . .

(Second Am. Compl., ECF No. 86 at 24.) Plaintiffs argue that the prospect of balloon payments created economic duress. That argument is not well-taken. A balloon payment would be triggered only if the employment offer were rejected. (Id.) Plaintiffs do not allege that the employment offers and the settlement offers were interdependent. Indeed, the putative class includes truck drivers who became employees but did not settle. Robles himself is one. (Id. at 7-9.) On the face of Plaintiffs' Second Amended Complaint, the drivers were free to accept or reject their employment offers and independently accept or reject any proposed settlement.

Plaintiffs allege no confusion. They allege no language or competency barriers and no reason the settling potential class members could not seek their own legal counsel. Plaintiffs offer no material facts to support their conclusion that the settling Plaintiffs were subjected to duress, deception, or undue influence during the settlement process. That many chose to accept within a short time after being presented with a settlement offer, standing alone, is insufficient to support a plausible claim of coercion. Plaintiffs draw conclusions and inferences. They do not allege sufficient supporting facts. The claims seeking to void the settlement agreements are DISMISSED.

B. Tennessee Law

Defendants argue that Plaintiffs' California statutory claims are invalid because Tennessee law controls. Because California, not Tennessee, law governs all claims, Defendants' Motion on this ground is DENIED.

C. The FAAA

Defendants argue that Plaintiffs' California statutory claims are preempted by the FAAA. Because the effect of California's labor law on the prices, routes, and services of motor carriers is remote and tenuous, preemption does not apply in this case. That conclusion is supported by the deference afforded decisions made in the case by the transferring court.

Section 601(c) of the FAAA "supersedes state laws 'related to a price, route, or service of any motor carrier . . . with respect to the transportation of property.'" Dan's City Used Cars, Inc. v. Pelkey, 133 S. Ct. 1769, 1776 (2013) (quoting 49 U.S.C. § 14501(c)(1)). Congress had used similar preemption language in the 1978 Airline Deregulation Act. 49 U.S.C. § 13501(a)(1). "'[W]hen judicial interpretations have settled the meaning of an existing statutory provision, repetition of the same language in a new statute indicates . . . the intent to incorporate its judicial interpretations as well.'" Rowe v. New Hampshire Motor Transport Ass'n, 552 U.S. 364, 370 (2008) (quoting Merrill Lynch, Pierce, Fenner & Smith Inc. v. Dabit, 547 U.S. 71, 85 (2006)). "[T]he broad preemption interpretation" of the Airline Deregulation Act applies to the FAAA. Id. The FAAA preempts regulations that would directly affect, or indirectly "have a significant impact" on, the prices, routes, or services of motor carriers. Id. (quoting Morales v. Trans World Airlines, Inc., 504 U.S. 374, 388 (1992)). State laws whose effect on prices, routes, or services is only "tenuous, remote, or peripheral" are not preempted. Id. at 371 (quoting Morales, 504 U.S. at 390).

Different circuits have reached different conclusions about whether the FAAA preempts general wage and labor regulations applicable to transportation employees. As Defendants point out in multiple Notices of Supplemental Authority, the First Circuit has decided that preemption might apply in cases like this. See, e.g., Massachusetts Delivery Ass'n v. Coakley, 769 F.3d 11 (1st Cir. 2014) (addressing FAAA preemption of Massachusetts labor laws); Schwann v. FedEx Ground Package System, Inc., 813 F.3d 429 (1st Cir. 2016) (same); Massachusetts Delivery Ass'n v. Healey, 821 F.3d 187 (1st Cir. 2016) (same). The Ninth Circuit, addressing the California labor laws at issue in this case, has decided that preemption does not apply. Dilts v. Penske Logistics, LLC, 769 F.3d 637 (9th Cir. 2014). As Plaintiffs point out in their Notice of Supplemental Authority, the California Court of Appeals has reached the same conclusion. See Godfrey v. Oakland Port Services Corp., 230 Cal. App. 4th 1267 (2014), cert. denied, 136 S. Ct. 318 (2015). The Ninth Circuit and the California Court of Appeals' reasoning is more compelling and more directly on point. Preemption does not apply.

California's general scheme of labor laws, including overtime pay and mandatory breaks, impacts the rates and services motor carriers may offer. That impact is remote and is comparable to other general regulatory schemes, rather than significant in its own right. The California laws at issue do increase the relative cost of truck drivers in the labor market, and at least some of that increase will be reflected in the ultimate price of trucking services. That is true of any regulation affecting costs incurred in the carrier industry. A general regulation that affects fuel, tires, or engines would have a similar remote effect, as would regulations that cover petroleum, rubber, or steel. As the Ninth Circuit succinctly stated: "We must draw a line." Dilts, 769 F.3d at 643. Labor law regimes that govern truck drivers as employees are sufficiently remote to insulate those regimes from FAAA preemption.

None of the Supreme Court's guideposts suggests otherwise. The California regulatory scheme does not demand that motor carriers offer certain services, such as recipient verification. Cf. Rowe, 552 U.S. at 370. It does not demand that motor carriers enforce customer discount or pricing agreements in a certain way. Cf. Northwest, Inc. v. Ginsburg, 134 S. Ct. 1422 (2014). On the contrary, California's regulatory effects are far removed from customer interaction and point-of-sale and place no limits or requirements on services offered. California's regulations affect motor carriers only insofar as they are employers. Motor carriers in California remain free to offer the same prices, routes, and services as before, constrained by the market.

The transferring court reached the same conclusion. The court explicitly found that the California labor scheme was "not preempted by the FAAA Act." (Order, ECF No. 54 at 17.) Under the doctrine of "the law of the case," a "decision on an issue made by a court at one stage of a case should be given effect in successive stages of the same litigation," even if that decision was made by a coordinate court. United States v. Todd, 920 F.2d 399, 403 (6th Cir. 1990) (citing Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 816 (1988)). That doctrine is not an "inexorable command," but is "directed to a court's common sense." Hanover Ins. Co. v. American Engineering Co., 105 F.3d 306, 312 (6th Cir. 1997) (quoting Petition of U.S. Steel Corp., 479 F.2d 489, 494 (6th Cir. 1973)). Courts typically override that deference and reconsider a ruling: "(1) where substantially different evidence is raised on subsequent trial; (2) where a subsequent contrary view of the law is decided by the controlling authority; or (3) where a decision is clearly erroneous and would work a manifest injustice." Id. No reason so compelling exists in this case. The law of the case further supports the conclusion that FAAA preemption should not apply to Plaintiffs' California labor law claims.

D. Quantum Meruit

Defendants also argue that Plaintiffs' quantum meruit claims should be dismissed because express contracts governed the parties' relationships. Under California law, "it is well settled that there is no equitable basis for an implied-in-law promise to pay reasonable value when the parties have an actual agreement covering compensation." Hedging Concepts, Inc. v. First Alliance Mortgage Co., 41 Cal. App. 4th 1410, 1419 (Cal. Ct. App. 1996). More generally, a claim for quantum meruit may not "contravene or alter" the terms of an express contract between the litigants. Hartford Cas. Ins. v. J.R. Marketing LLC, 61 Cal. 4th 988, 609 (2015). Although a quantum meruit claim may supply "implicitly missing contractual terms," terms addressing a subject "are not implicitly missing when the parties have agreed on express terms regarding that subject." Hedging Concepts, 41 Cal. App. 4th at 1419.

Plaintiffs allege that they remain uncompensated for business expenses, time spent driving miles, and certain working hours. (Second Am. Compl., ECF No. 86 at 50.) The Contracts, however, are comprehensive and cover those subjects thoroughly. The Contracts cover compensation generally, operating expenses, flat rates and mileage rates (rather than an hourly scheme), and layover and detention compensation. (Ex. A, ECF No. 92-1 at 3-5, 9-11.) The Contracts also prominently include a clause providing that the agreement is fully integrated. (Id. at 7.) That Plaintiffs were uncompensated for certain business expenses, miles, and hours is neither an accident nor an oversight. It is clearly contemplated by the design of the independent contractor scheme.

Plaintiffs' quantum meruit claims do not supply implicitly missing terms, but seek to contravene the intent of the express, fully integrated Contracts. Plaintiffs have failed to allege sufficiently that they are entitled to relief based on quantum meruit. Plaintiffs' quantum meruit claims are DISMISSED.

VI. Conclusion

Defendants' Motion to Dismiss is GRANTED on the claims of purported class members who have signed settlement agreements.

Defendants' Motion to Dismiss is GRANTED on Plaintiffs' claims based on quantum meruit. Defendants' Motion to Dismiss is otherwise DENIED.

So ordered this 19th day of July, 2016.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE